

Resources for Public Speaking: Defining the Boundaries Between Article III and Non-Article III Courts

Topic at a Glance

Introduction. Article III of the U.S. Constitution vested the “judicial power” in the Supreme Court as well as any lower federal courts Congress might choose to establish. The article also contained provisions meant to ensure judicial independence, namely judicial tenure during good behavior and protection against any reduction in judges’ compensation. Since the republic’s earliest years, however, some adjudicatory tasks have been performed by officers not vested with these constitutional protections. This summary provides examples of changes in the scope of non-Article III adjudication, details the history of two specialized courts with ambiguous constitutional status, and identifies the legal theories underpinning the work of non-Article III officers.

Article III is Not All-Encompassing. Congress never intended that every matter to which the judicial power extends be adjudicated by Article III judges. State courts, for example, heard many cases arising under federal law, especially before Congress granted the federal courts full federal question jurisdiction in 1875. Throughout history, Congress has assigned adjudicative tasks to non-Article III courts (sometimes called Article I courts), non-Article III officers (or adjuncts) of the U.S. district courts, and administrative agencies.

Examples of Non-Article III Adjudication. Non-Article III adjudication has been carried out by, for example, territorial judges, certain District of Columbia judges, military judges, U.S. magistrate judges, U.S. bankruptcy judges, judges of the U.S. Tax Court, and administrative law judges working in federal administrative agencies.

Courts with Ambiguous Status. The U.S. Court of Claims (1855–1982) and the U.S. Court of Customs and Patent Appeals (1909–1982) were each created by Congress to perform specialized judicial functions. The constitutional status of both courts was long a matter of dispute. The Supreme Court initially held both to be Article I courts but ruled them to be Article III courts in 1962 (*Glidden Co. v. Zdanok*). The complicated and ambiguous history of these courts illustrates that the exact boundaries of Article III adjudication are subject to interpretation and have never been set in stone.

Legal Theories Underpinning Non-Article III Adjudication. The Supreme Court has never established a bright-line rule governing the circumstances under which non-Article III adjudication is constitutionally valid. Instead, it has made this determination on a case-by-case basis, employing different legal theories, some of which have coexisted in the law.